

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BAVARIAN NORDIC A/S,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-614 (SLR)
)	
ACAMBIS INC. and)	
ACAMBIS PLC,)	
)	
Defendants.)	
)	

**NOTICE OF WITHDRAWAL OF ACAMBIS’
MOTION TO STAY THE PROCEEDINGS**

Defendants Acambis Inc. and Acambis plc (collectively, “Acambis”) hereby withdraw their motion to stay the proceedings filed on October 4, 2005 (D.I. 12). The primary basis for that motion was overlap between this case and a parallel proceeding brought by Plaintiff Bavarian Nordic A/S (“BN”) before the U.S. International Trade Commission (“ITC”). *See* U.S.C. 1659(a) (requiring a stay of “any claim that involves the same issues involved in [a] proceeding before the [ITC] . . .”). The primary overlap involved BN’s allegations of misappropriation of trade secrets and tortious conversion, which were identical in both proceedings. In April 2006, the ITC Administrative Law Judge (“ALJ”) summarily dismissed the trade secret and tortious conversion claims from the ITC proceeding. Those rulings became final on May 9, 2006. The ITC trade secrets claim was dismissed on the basis that it is subject to mandatory, binding arbitration pursuant to a February 2002 agreement between BN and Acambis. As noted by the ALJ, that agreement requires that “[a]ll disputes and differences of any kind related to this Agreement . . . shall be finally settled under the Rules of the International Chamber of Commerce (the ‘ICC’) by one arbitrator appointed in accordance with said Rules.”

As BN's trade secrets allegations before the ITC are coterminous with those alleged here, Acambis will separately move in this case to dismiss the trade secrets claim.

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Dated: June 9, 2006
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CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2006, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to the following:

John W. Shaw, Esquire
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Additionally, I hereby certify that true and correct copies of the foregoing were caused to be served on June 9, 2006 upon the following individuals in the manner indicated:

BY HAND

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